

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

\* \* \* \* \*  
UNITED STATES OF AMERICA \* CRIMINAL ACTION  
\* 11-186-S  
\*  
VS. \* JUNE 18, 2013  
\*  
JOSEPH CARAMADRE \*  
\* PROVIDENCE, RI  
\* \* \* \* \*

HEARD BEFORE THE HONORABLE WILLIAM E. SMITH  
DISTRICT JUDGE

(Motion to Reconsider Order of Detention and Motion to  
Continue Sentencing )

**APPEARANCES:**

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1 18 JUNE 2013 -- 3:45 P.M.

2 THE COURT: Good afternoon. We're here in the  
3 matter of the United States versus Joseph Caramadre.  
4 We're here on Defendant's motion to reconsider the  
5 order of detention as well as I'm going to hear from  
6 counsel with respect to the motion to continue the  
7 sentencing date.

8 So let's begin by having counsel identify  
9 themselves for the record, please.

10 MR. McADAMS: Good afternoon, your Honor. John  
11 McAdams and Lee Vilker on behalf of the United States.

12 MR. OLEN: Good afternoon, your Honor. Randy  
13 Olen for Mr. Caramadre.

14 MR. MURPHY: Good afternoon. Attorney William  
15 Murphy on behalf of Mr. Caramadre.

16 THE COURT: Thank you very much.

17 Okay. Let's begin with the motion to reconsider  
18 the order of detention.

19 MR. OLEN: Judge, I have Dr. Zlotnick and  
20 Dr. Greer available for some brief questioning, if I  
21 may.

22 THE COURT: You've submitted some affidavits,  
23 right?

24 MR. OLEN: I did, Judge.

25 THE COURT: So is there anything that's going to

1 be added to the affidavits? I didn't know you were  
2 intending to put on evidence.

3 MR. OLEN: Certainly on the part of Dr. Greer,  
4 Judge, I think his testimony will only be a couple of  
5 minutes, but I think it will assist the Court.

6 THE COURT: All right. Go ahead.

7 JAMES GREER, first having been duly sworn,  
8 testified as follows:

9 THE CLERK: Please state your name and spell  
10 your last name for the record.

11 THE WITNESS: James Edward Greer, G-R-E-E-R.

12 THE COURT: Good afternoon, Dr. Greer.

13 THE WITNESS: Good afternoon, your Honor.

14 THE COURT: Go ahead.

15 MR. OLEN: Thank you, your Honor.

16 DIRECT EXAMINATION BY MR. OLEN

17 Q. Dr. Greer, thank you for coming in. I know you  
18 appeared previously in these proceedings.

19 Could you just remind us of your field and where  
20 you practice.

21 A. Yes. I'm a psychiatrist. I practice at the  
22 Providence Center, as well as being a consultant at the  
23 Adult Correctional Institutions, and I also consult for  
24 a couple of other social service agencies. I am also  
25 clinical assistant professor of psychiatry at the

1 Albert Medical School at Brown University.

2 Q. Okay. And you recently performed an evaluation of  
3 Mr. Caramadre?

4 A. Yes, I did.

5 Q. For the purpose of this hearing?

6 A. At the Wyatt facility.

7 Q. Okay. And you submitted a report entitled  
8 "Psychiatric Evaluation of Joseph Caramadre"?

9 A. Yes, I did.

10 Q. Dr. Greer, your report indicates that the purpose  
11 of the report is specifically with reference to  
12 potential suicidal ideation, intent or behavior. Those  
13 are three different concepts. Can you distinguish them  
14 and tell me how that factors into the --

15 A. Yes. Suicidal ideation simply refers to a person  
16 experiencing a thought of taking their own life. Not  
17 an uncommon phenomenon and throughout lifetime probably  
18 reaching at least 50 percent of the general population.  
19 Forming an intention to take one's own life is a very  
20 different thing; and then if one forms an intention,  
21 whether or not one develops a plan with which to do so.  
22 And then of course, we consider whether or not they  
23 have the means to carry out the plan. And then  
24 finally, behavior. In other words, someone who has  
25 actively engaged in a behavior with the specifically

1       stated intent of taking their own life, irrespective of  
2       the degree of potential lethality of that behavior.

3       Q.     Okay. Now, with respect to this evaluation, are  
4       you experienced in this kind of an assessment?

5       A.     Yes, I am.

6       Q.     Can you tell us how?

7       A.     For the past 22 years, I have worked at the ACI  
8       with the specific role of doing risk assessment around  
9       safety for dangerousness to self or others with mostly  
10      newly committed inmates as well as other inmates  
11      identified as possibly having those issues within the  
12      ACI.

13      Q.     And did you say how long you've been doing that?

14      A.     For 22 years.

15      Q.     Do you know, can you approximate how many times  
16      you've conducted this type of assessment?

17      A.     I would say it would have to be in the thousands.

18      Q.     Can you discuss just generally the procedures that  
19      you use when you do this.

20      A.     Typically, an inmate, either at the intake  
21      facility or at the women's facility, would be referred  
22      to me by the counseling staff, by the correctional  
23      staff or administratively because they had been  
24      identified as being at potential risk of possibly being  
25      dangerous to self or others and by using certain

1 screening tools that they have in place.

2 Once they have been identified as having  
3 potential risk for any potential risk factor, they're  
4 then referred to me for psychiatric assessment where I  
5 will review the information with them, meet with the  
6 inmate and evaluate them and make a determination as to  
7 whether they, in fact, rise to that level of  
8 dangerousness; and if so, then direct them to  
9 appropriate levels of supervision and monitoring so  
10 that that won't occur.

11 Q. Can you describe the procedure that you used with  
12 respect to Mr. Caramadre?

13 A. Yes. I met with Mr. Caramadre. I had already met  
14 with him before, as you know, and had assessed him. He  
15 had made a statement when I had first evaluated him  
16 that he had experienced thoughts of taking his own life  
17 at the time of his initial trial. And so I spoke with  
18 him about -- I had spoken with him about that issue in  
19 my first evaluation and had not found any evidence of  
20 current suicidal ideation. Certainly no history of  
21 intention and no history of any such behavior.

22 And so I reviewed the same findings with him.  
23 And certainly he reported that he was experiencing  
24 depression as a result of his circumstances and also  
25 because of his chronic depression. He had been

1 receiving his prescribed medication. Once he started  
2 receiving his medication, his depression improved to  
3 some degree although it was still very much active and  
4 present. He was not experiencing suicidal ideation.  
5 He denied any intention of self-harm, denied any plans  
6 of doing so and at no time ever had, in fact, intended  
7 to.

8 We also reviewed potential reasons why he would  
9 not pursue such a course of action, and he provided  
10 reasons, which included his stated deep religious  
11 faith, as well as his strong connections towards his  
12 family and the wish not to inflict such a painful  
13 experience upon them.

14 Q. Dr. Greer, your evaluation concludes that  
15 Mr. Caramadre does not present an acute risk of  
16 suicidal behavior. Can you elaborate on what that  
17 means, "acute risk"?

18 A. Yes. In other words, certainly at the day and  
19 time and surrounding when I met with him, there was no  
20 evidence that he was at such risk. The risk factors  
21 that he carries, which include a history of depression  
22 as well as having made a statement of suicidal ideation  
23 will be risks 25 years from now, whether or not they  
24 ever occur again and would, I guess, raise a red flag  
25 you might say for someone to require such an



1 evaluation. But at least right now I don't see that as  
2 being a significant risk.

3 Q. Can you say that -- you've said in your evaluation  
4 to a reasonable degree of scientific certainty. What's  
5 your confidence level that he is not a risk of suicide?

6 A. My confidence level is very, very high based on my  
7 experience working with other people who have been in  
8 similar circumstances and who have had similar risk  
9 factors.

10 MR. OLEN: Okay. Thank you, Doctor. That's  
11 all.

12 THE COURT: Mr. McAdams.

13 MR. McADAMS: Briefly, your Honor.

14 **CROSS-EXAMINATION BY MR. McADAMS**

15 Q. Good afternoon, Dr. Greer.

16 A. Good afternoon.

17 Q. I'm John McAdams. We met before.

18 A. Yes, I recall.

19 Q. Dr. Greer, you were retained by Mr. Olen --

20 A. That's correct.

21 Q. -- for this evaluation? How many times have you  
22 worked with Mr. Olen to testify on behalf of his  
23 clients?

24 A. On behalf of his clients? And this client I  
25 believe there was one client previously. Although that

1 might have been, if it was, it was years ago. I'm not  
2 a regular -- I'm not on retainer.

3 Q. But you were paid for your services?

4 A. Yes.

5 Q. And you were paid to evaluate Mr. Caramadre?

6 A. Yes.

7 Q. Okay. Now, you indicated that your evaluation of  
8 him was based on many of the things that he  
9 self-reported to you; is that correct?

10 A. Yes.

11 Q. You wrote in your affidavit some of the things  
12 that he stated to you?

13 A. Yes.

14 Q. Okay. And you wrote that he told you that it was  
15 his belief that the Judge had ordered him to be held  
16 out of fear that he might commit suicide or might  
17 otherwise arrange his own demise at the hands of  
18 another; is that correct?

19 A. Yes.

20 Q. That's what Mr. Caramadre told you?

21 A. Yes.

22 Q. So it was his belief that the reason he's being  
23 held is because the Judge worried that he might commit  
24 suicide?

25 A. Yes. That's correct. That's what he told me.

1 Q. And so you asked him a series of questions to  
2 determine whether or not he was suicidal?

3 A. Yes.

4 Q. And he answered those questions?

5 A. Yes.

6 Q. Okay. And your opinion is based largely, if not  
7 entirely, on what he told you in response to those  
8 questions?

9 A. Not entirely. It's based on certainly his  
10 responses to the question. And "largely" may be a fair  
11 term, but also on observing him, observing his mood,  
12 his affect, the way that he expresses his mood  
13 comparing him to the way that he had presented at the  
14 other times that I had met him. I didn't see any  
15 evidence in terms of observing him, not only the words  
16 that he said but his emotional state, that suggested to  
17 me that he was at higher risk.

18 Q. So you ultimately determined that he is not  
19 presently an acute risk?

20 A. Yes, that's right.

21 Q. What exactly does that mean?

22 A. That means, in other words, that I don't think  
23 that right now at the point in time when I saw him that  
24 he was at risk, that he was at acute risk, in other  
25 words, of imminent danger of harming himself or anybody

1 else. Obviously, over time circumstances can change in  
2 any person's life. And then if there were reason to  
3 believe that a person was at such risk, then a new  
4 assessment might be necessary.

5 Q. It's a very temporal diagnosis?

6 A. It is temporal, yes, because certainly we can't  
7 predict the future, what circumstances might lead a  
8 person to make a choice like that.

9 Q. So you have no way of knowing for certain whether  
10 or not he might feel differently in the future?

11 A. About any person I could not be that certain about  
12 what they might do if they faced different  
13 circumstances in the future, including Mr. Caramadre.

14 Q. But you also said, and I don't remember your exact  
15 words, but you indicated that he does have some risk  
16 factors and that in 25 years he'll still have some risk  
17 factors?

18 A. Yes. They will always be there simply because  
19 they have occurred. He at one point in his life made a  
20 suicidal statement, and he has a history of treatment  
21 for a very severe depressive disorder.

22 Q. And you also indicated that I believe that one of  
23 the factors in assessing the risk of a person for  
24 committing suicide is, first of all, whether they've  
25 expressed suicide ideation?

1 A. Yes.

2 Q. And Mr. Caramadre has expressed suicidal ideation  
3 in the past?

4 A. Yes.

5 Q. Did you review the notes of Dr. Xavier that  
6 reflected that suicidal ideation?

7 A. I don't believe that I -- not on this occasion, I  
8 did not. I believe I previously reviewed those when I  
9 initially evaluated him.

10 Q. Did you ever speak to Dr. Xavier regarding --

11 A. No.

12 Q. You never spoke to her at all?

13 A. No. Not about that issue, no.

14 Q. So you didn't seek out her opinion on the  
15 potential risk that Mr. --

16 A. No. I reviewed the records, but I didn't speak  
17 with her personally.

18 Q. And one of the other risk factors that you  
19 indicated was if a person expresses or formulates a  
20 plan for how they might go about committing suicide?

21 A. Yes.

22 Q. That increases the risk?

23 A. Yes. If someone has developed a plan, then that  
24 is another risk factor.

25 Q. So if there's any type of concrete thought

1 formation as to how they would go about committing  
2 suicide, a person is at a higher risk than somebody who  
3 just says, you know, "I wish I were dead," or something  
4 to that effect?

5 A. Yes.

6 Q. And Mr. Caramadre, in fact, did express some  
7 specific statements as to how he would kill himself,  
8 did he not?

9 A. He did.

10 Q. He said that he would go and have somebody else,  
11 either hire somebody or get a third party to kill him,  
12 correct?

13 A. Right. My understanding was that somehow that  
14 might in his mind avoid committing mortal sin.

15 Q. He believed that somehow he would avoid moral  
16 accountability for suicide if he were to instead hire  
17 somebody to commit first degree murder?

18 A. That was his speculative reason for it. And  
19 again, when we're assessing such things, we also try to  
20 assess whether or not someone has the means to carry it  
21 out. I don't know anything about his connection of the  
22 people who would be able to do such a thing.

23 Q. So you don't know whether he could find a willing  
24 third party to kill him?

25 A. I don't know.

1 Q. Do you have any views as to whether that's a  
2 rational thought, to have a third party commit first  
3 degree murder?

4 A. Well, I don't think that it is out of touch with  
5 reality. I wouldn't say that it's a very adaptive  
6 strategy to do something, but I suppose you could say  
7 is a rational thought particularly if you're trying to  
8 avoid divine consequence. I can understand the  
9 rationale. I might not agree with it.

10 MR. McADAMS: One moment, your Honor.

11 No further questions. Thank you.

12 THE COURT: Thank you. Do you have any  
13 follow-up, Mr. Olen?

14 MR. OLEN: Nothing further, your Honor.

15 THE COURT: Thank you, Dr. Greer. You may step  
16 down.

17 MR. OLEN: Judge, I would like to ask a few  
18 questions of Mr. Caramadre regarding this particular  
19 issue.

20 THE COURT: All right.

21 JOSEPH CARAMADRE, first having been duly sworn,  
22 testified as follows:

23 THE WITNESS: Joseph Caramadre,  
24 C-A-R-A-M-A-D-R-E.

25 THE COURT: Good afternoon, Mr. Caramadre.

1 THE WITNESS: Good afternoon, your Honor.

2 **DIRECT EXAMINATION BY MR. OLEN**

3 Q. Mr. Caramadre, I want to ask you just a few  
4 questions about this particular incident of suicidal  
5 ideation.

6 A. Yes.

7 Q. Do you recall telling Dr. Xavier that you had some  
8 type of suicidal ideation?

9 A. Sure. I remember telling her that things were  
10 going very bad, I wish I were dead.

11 Q. Do you remember when?

12 A. In December or late November.

13 Q. So it was shortly after you pleaded?

14 A. Yes. That's correct.

15 Q. Okay. And what did you say to her?

16 A. What was that, please?

17 Q. What did you say to her, exactly?

18 A. Just that I'm feeling terrible about the guilty  
19 plea and that I can't live with myself pleaing guilty  
20 to something I don't believe I did. And she adjusted  
21 the medication. It required no appointment, and  
22 everything at least on her end was fine.

23 Q. Did you ever think specifically or make any  
24 specific plan to bring about your demise or to  
25 otherwise hurt yourself?



1       A.    No.  Not at all.  And as a matter of fact, that  
2       came up really in jest at a meeting amongst members of  
3       the Men of St. Joseph's where we were talking out loud  
4       about life and death.  So no, I've never made any  
5       plans, never even thought of it.

6       Q.    Did you at any time contemplate hiring a hit man  
7       to perform that task?

8       A.    No, not at all.

9       Q.    Other than that incident, have you ever had even  
10      suicidal ideation?

11      A.    No, I've never had it.

12      Q.    Can you describe your mental health to us now?

13      A.    Well, I suffer from severe depression, but I have  
14      for 20 years.  And I take multiple medications, and I  
15      get through the day.

16      Q.    You're incarcerated at the moment.  What are you  
17      thinking about the future right now?

18      A.    I'm thinking about very hopeful things.  I'm  
19      delighted to see my family in person, and I'm thinking  
20      about what I need to do to get on in life.

21           MR. OLEN:  Thank you, your Honor.  That's all.

22           THE COURT:  Thank you.

23           Mr. McAdams.

24           **CROSS-EXAMINATION BY MR. McADAMS**

25      Q.    Good afternoon, Mr. Caramadre.

1 A. Good afternoon.

2 Q. Mr. Caramadre, you understand that the Court is  
3 considering your request to be released from prison  
4 pending your sentencing?

5 A. That is correct.

6 Q. And you believe that if you convince the Court  
7 that you're not suicidal, then you are more likely to  
8 be released?

9 A. I believe that if I am not suicidal, that there  
10 would be no reason to hold me.

11 Q. Now, you just testified that your statement at the  
12 Men of St. Joseph's meeting was in jest?

13 A. Pretty much. It was at the end of a meeting when  
14 people were leaving, yes.

15 MR. McADAMS: Your Honor, I'd like to just mark  
16 as Government Exhibit 1 for this hearing an e-mail  
17 Mr. Caramadre sent.

18 If there's no objection, I'd move it into  
19 evidence at this hearing.

20 THE COURT: All right. We'll take that as  
21 Government's 1 without objection.

22 (Government Exhibit 1 admitted in full.)

23 Q. Mr. Caramadre, do you recognize this document?

24 A. Yes.

25 Q. Is this an e-mail you sent to Mr. Lepizzera and

1 the Men of St. Joseph's, so to speak?

2 A. Um-hum. Yes.

3 Q. And in this e-mail, you stated that you've spoken  
4 with the doctor and concurred that the interaction of  
5 newly prescribed drugs combined with the discontinuance  
6 of other prescriptions can cause irrationality. We  
7 have adjusted the delicate drug regimen in the hopes of  
8 reducing ideations which are not based on healthy,  
9 clear thoughts. Nonetheless, your care and love both  
10 collectively and individually has further reinforced my  
11 belief that God exists and has you gentlemen as His  
12 witnesses.

13 And in the first paragraph, which I skipped  
14 over, you write in part that you feel better, just  
15 making a promise to all of you that I will not take any  
16 action to leave this place any time sooner than God  
17 planned.

18 Is that the e-mail that you wrote to them?

19 A. That's correct.

20 Q. You didn't write anything about sorry about that  
21 bad joke that didn't go over last night?

22 A. No. Because I wrote this to four or five  
23 individuals who were gathered by Mike Lepizzera at the  
24 meeting because Mike never heard the comments. It was  
25 just reported him. So he reacted to it. So I just

1       made a promise that I'm not going to hurt myself.

2       Q.    Mr. Lepizzera and others were concerned about you.  
3       And out of care and concern they spoke to you, and this  
4       is a response, thank you essentially, from you; is that  
5       fair to say?

6       A.    Yeah.  It's a response to thank my fellow brothers  
7       for stepping up and caring about me.  But I was fine  
8       then and I just wanted to give them peace of mind that  
9       I promised to them that I won't do anything.

10       MR. McADAMS:  No further questions.  Thank you.

11       THE COURT:  Any redirect, Mr. Olen?

12       MR. OLEN:  No, your Honor.  Thank you.

13       THE COURT:  All right.  Thank you.

14       Mr. Caramadre, you may step down.

15       THE WITNESS:  Thank you, your Honor.

16       THE COURT:  Anything further, Mr. Olen?

17       MR. OLEN:  Yes.  May I be heard?

18       THE COURT:  Do you have any more evidence?

19       MR. OLEN:  No, I do not.

20       THE COURT:  All right.  Then I'll hear your  
21       argument.

22       MR. OLEN:  I would, your Honor, ask to mark  
23       Dr. Zlotnick's affidavit as Exhibit A for this hearing  
24       and Dr. Greer's as Exhibit B.  I'd ask that they be  
25       moved into evidence, please.

1 THE COURT: Those will be made part of the  
2 record, A and B.

3 (Defendant's Exhibits A and B admitted in full.)

4 MR. OLEN: Thank you, Judge.

5 Your Honor, with respect to the flight risk  
6 aspect of the analysis, Mr. Caramadre is 53 years old.  
7 He's a life-long resident of Rhode Island with deep,  
8 deep roots in our state. He graduated from Cranston  
9 West High School, University of Rhode Island and  
10 Suffolk Law School. He has no previous criminal  
11 record, no defaults. He's been married for over 20  
12 years. He has three children, age 19, 17 and 13, who  
13 are in college, high school and St. Andrews  
14 respectively. He has five siblings in Rhode Island,  
15 numerous extended family members. He has elderly  
16 parents who are ill and whom he supports both  
17 financially and serves as a caregiver to.

18 He owns his own home. His in-laws live in that  
19 home. He's built a special place in the home, an  
20 addition to the home for them to live. He is deeply,  
21 as you know, involved in charitable activities and with  
22 his church.

23 He is when at liberty before being taken into  
24 custody, he's involved in food kitchens. He teaches  
25 Catechism. He goes to Mass on a daily basis. He

1 surrendered his passport, Judge.

2 With respect to any danger that he presents to  
3 the community, both doctors through affidavit and  
4 testimony, your Honor, have indicated that he's not in  
5 the least suicidal. As Dr. Greer said, probably 50  
6 percent of the population has had suicidal ideation.  
7 And that's important because on only one occasion did  
8 he ever make a comment to Dr. Xavier that he had a  
9 suicidal ideation. Nothing beyond that. Never thought  
10 about doing it. Never seriously considered, never got  
11 beyond the ideation stage that many of us have thought.

12 If we committed everyone who had suicidal  
13 ideation, had the thought of suicide pass our minds in  
14 the worst of our times, then there wouldn't be room to  
15 put us all, your Honor.

16 The idea that he would seriously think about  
17 hiring a hit man to accomplish this task is nothing  
18 short of ludicrous. The doctors at Wyatt, when he went  
19 to Wyatt, did their own analysis and have cleared him  
20 of any type of risk of harm to himself.

21 He is no longer involved in the activities that  
22 resulted in the initiation of the prosecution.  
23 Consideration of the factors of flight risk and danger  
24 to the community, your Honor, it would be utterly  
25 specious to suggest that this man presents any flight

1 risk or any danger to the community. His involvement  
2 with his family, with his church and with his community  
3 are remarkable, remarkably extensive.

4 Does anyone really believe that Mr. Caramadre  
5 would leave his family and his elderly parents and his  
6 young children to flee the jurisdiction? That's  
7 utterly absurd.

8 Since he was indicted in 2011, Judge, he has  
9 complied with every condition of release. When he  
10 pleaded in November of 2012, we filed a motion to  
11 withdraw the plea in February of 2013. Those three  
12 months he was in the same position he's in now. He  
13 knew that he was going to go to jail, he knew that he  
14 was at risk of going to jail and he did nothing to  
15 violate or hint at violating any terms of his release.

16 Judge, your decision, the Court's decision at  
17 the time of the denial of the motion to withdraw the  
18 plea and when he was taken into custody noted that  
19 normally the Court would not require that he be taken  
20 into custody and that it wasn't meant as a punitive  
21 gesture but rather as a protective one and that out of  
22 an abundance of caution that the Court wished that it  
23 didn't have to do that.

24 Well, given the fact that there's not even a  
25 hint that Mr. Caramadre presents a flight risk or

1 danger to the community and that the Court's decision  
2 was based at that --

3 THE COURT: Let me ask you a question. Did Joe  
4 Mollicone present a flight risk?

5 MR. OLEN: Judge, I'm unfamiliar. That's a  
6 little before my time in Rhode Island. I'm unfamiliar  
7 with that case.

8 THE COURT: Okay.

9 MR. OLEN: Given the fact that the Court's  
10 decision was based at that time at least almost  
11 entirely on this concern for his suicidal ideation,  
12 given the testimony from the doctors today, that issue  
13 should be completely resolved in the Court's mind.

14 His sudden incarceration has worked a hardship  
15 on his family. As I said, he knows he's going to be  
16 serving a prison sentence. He's already ministering at  
17 the prison, your Honor. When I spoke with him to  
18 assess my own understanding of his condition, he told  
19 me that he thinks maybe this was meant -- maybe this  
20 was God's will, and he's working to assist people  
21 already in the facility.

22 He knows he's going to be serving a sentence,  
23 your Honor. I ask the Court to give him the  
24 opportunity pending sentencing to get his affairs in  
25 order.



1 I'd also say, respectfully, you have said from  
2 the very instant that I got involved in this case that  
3 this is not a run-of-the-mill case. Far from it. The  
4 sentencing issues in this case are complex, and I am at  
5 a loss to really address the sentencing concerns  
6 without his assistance. The Government has stated in  
7 their memo that Mr. Caramadre refuses to fill out the  
8 financial affidavit. Well, that's not the case. I've  
9 been with him at the prison trying to do that. His CPA  
10 doesn't run his business. He does. Judge, he really  
11 needs access to -- and I need his assistance in  
12 preparing for sentencing.

13 THE COURT: In some ways the sentencing aspects  
14 of this case are not very complicated at all. The  
15 Government makes a point in its papers the loss numbers  
16 drive the guideline range literally off the chart to a  
17 point where the chart doesn't go. But that's all  
18 pretty much beside the point because the plea agreement  
19 caps the sentence at ten years. It's a binding plea  
20 agreement. I've accepted it. So there's really  
21 nothing complex about the incarceration side of the  
22 sentence.

23 Now, I will say, and, you know, this sort of  
24 segues into your other motion for a continuance of the  
25 sentencing. Potentially, the restitution aspects of

1 the sentence may present some complexity, but I'm not  
2 positive about that. So you can address that, if you  
3 want.

4 MR. OLEN: Judge, I've addressed it to the best  
5 of my ability, which is extremely limited at this point  
6 in time.

7 First of all, your Honor, the original plea was  
8 November 19th, as you know, 2012. At that time, the  
9 sentencing was scheduled for February and it was a  
10 tentative date. Nobody expected that date to hold. So  
11 there was a minimum of three months, and probably four  
12 or five months in which the parties were going to be  
13 able to prepare for sentencing.

14 I entered this case in January and I have not,  
15 as an attorney to assist in his motion to withdraw his  
16 guilty plea, I have not had the occasion or the  
17 opportunity to deal with sentencing issues before the  
18 May 20th denial of the motion, your Honor.

19 First of all, there would be no reason to if the  
20 motion were granted; but more importantly, Judge, I  
21 just have not had the time and the ability to do that.  
22 It's been not even four weeks since the decision.  
23 These issues are complex. And I've said since Day One,  
24 Judge, as did his former attorneys, that they need an  
25 expert to figure out these losses, if they are losses,

1 to figure out what they are. The Government has Mr. or  
2 Dr. Kalotay. They've gotten their expert to provide  
3 their side of the story. These are very complex  
4 issues, Judge.

5 THE COURT: It's the Defendant's choice to go  
6 down this ill-advised road of trying to withdraw the  
7 plea, which his attorneys advised him strenuously  
8 against and which was all but -- and maybe it was a  
9 frivolous motion to begin with as I've ruled. That's  
10 the Defendant's choice. He wants to spend his time,  
11 you want to spend your time, four, five months on a  
12 frivolous motion to withdraw the plea as opposed to  
13 dealing with the reality of this case, which is that he  
14 pled guilty and he's going to be sentenced and he's got  
15 to deal with the presentence report, that's a choice  
16 the Defendant has made.

17 MR. OLEN: Your Honor, respectfully, in your  
18 decision you said that it was not frivolous but it was  
19 without merit, and I most respectfully disagree. I  
20 think there was merit and I think there is merit to  
21 that motion.

22 In any event, Judge, I'd conclude with respect  
23 to the incarceration, he's not a flight risk. He's not  
24 a danger to the community. He's not at risk of  
25 suicide. I ask the Court to release him on whatever

1 conditions the Court deems appropriate, whether it's  
2 electronic monitoring or daily reporting, but I ask the  
3 Court to allow him pending sentencing to be released.

4 With respect to the motion for a continuance,  
5 Judge, I can tell you that I am not interested -- and I  
6 know the Government sees some sinister meaning behind  
7 everything Mr. Caramadre does. I can tell you that I  
8 have no interest in being dilatory or to avoid the  
9 responsibility to help Mr. Caramadre. I just want to  
10 do the best job I can on his sentencing. We've  
11 retained the services of Mr. Murphy to try and assist  
12 in getting this done as quickly and as thoroughly as  
13 possible. My objections to the presentence report  
14 would be due in two days, Judge. In all fairness, it  
15 just has not been enough time.

16 I'm not looking to delay anything. I'm  
17 requesting 45 more days. I've spoken with an expert,  
18 I'm waiting to hear back, who said she can accomplish  
19 this in that period of time. I'm asking for that much  
20 time to properly prepare for this.

21 THE COURT: Explain to me what this expert is  
22 going to be doing.

23 MR. OLEN: Judge, each one of the investments --  
24 again, that's why we're getting an expert because I'm  
25 not a mathematician. I don't have a head for this kind

1 of stuff. It's clearly something that a forensic  
2 accountant needs to get involved in, an expert. And I  
3 believe what she's going to do is look at every one of  
4 these transactions, see whether or not money was really  
5 lost. For example, this much I can get my mind around,  
6 Judge, and the Government I think has tacitly conceded  
7 it in their memo when they say even if we back out \$12  
8 million that he made on the bonds, Mr. Caramadre bought  
9 those bonds on a secondary market. So when those bonds  
10 were purchased say for \$100 a bond and Mr. Caramadre  
11 bought it on the secondary market for \$50 and when the  
12 death benefit was paid out, they paid \$100. Well, they  
13 paid back what was paid in. So there's really no loss  
14 there. They're getting -- they got \$100; they're  
15 giving \$100 back.

16 So I think -- and that's about as far as my  
17 sophistication goes with respect to these issues, which  
18 is why we really need an expert, but it's an example of  
19 arguments or analyses that will be made by the expert.

20 THE COURT: Okay. Thank you.

21 MR. OLEN: Thank you.

22 MR. McADAMS: Your Honor, the Government opposes  
23 Mr. Caramadre's motion. The statute governing bail  
24 pending sentencing is 18 U.S.C. 3143. That statute  
25 requires the Court to order a defendant who has been

1 found guilty of an offense and is awaiting imposition  
2 of sentence to be detained unless the Court finds by  
3 clear and convincing evidence that the defendant is  
4 neither likely to flee nor pose a danger to the  
5 community. It is Mr. Caramadre's burden. The  
6 Government submits that he has failed his burden.

7 Your Honor, in United States versus Abuhamra,  
8 which is a Second Circuit case but it's been cited in  
9 First Circuit District Court opinions, the cite is 389  
10 F.3d, 309, the Court stated that a defendant's liberty  
11 interest pending sentencing must be weighed against the  
12 Government's strong and obvious countervailing interest  
13 in detaining defendants who have been found guilty  
14 beyond a reasonable doubt of serious crimes. Such  
15 detention provides public safety by removing a  
16 presumptively dangerous person from a community, and it  
17 encourages general respect for the law by signaling  
18 that a guilty person will not be able to avoid or delay  
19 imposition and service of sentence prescribed by law.

20 Contrary to Mr. Olen's argument that it's  
21 ridiculous to say that Mr. Caramadre is guilty because  
22 he's been found guilty of white collar crimes and does  
23 not have a violent past, the Supreme Court has stated  
24 that by virtue of his criminal conviction there is a  
25 presumption of dangerousness. That's in Jones versus

1        United States, 463 U.S. 354.

2                Mr. Caramadre is a risk of flight. Prior to the  
3 Court's ruling on his motion to withdraw his guilty  
4 plea, he was in some form of psychological state where  
5 he believed he was going to avoid accountability for  
6 this case. During the brief period of time following  
7 his guilty plea where he realized that he was going to  
8 be held accountable, he was suicidal. He contacted his  
9 treating psychiatrist, Dr. Xavier, who had been his  
10 treating psychiatrist for several years. The defense  
11 submitted an affidavit from her in support of its  
12 motion to withdraw his guilty plea. They didn't call  
13 her to testify at this hearing today. They didn't  
14 submit an affidavit from her stating that she has some  
15 other opinion at any point in time. They didn't have  
16 the person that they did hire to testify on  
17 Mr. Caramadre's behalf talk to her.

18                They're asking you, frankly, to go out on a huge  
19 limb with this very limited diagnosis from Dr. Greer  
20 that at this exact moment in time that he feels  
21 confident he's not a suicidal risk. They're  
22 simultaneously requesting more than a month for  
23 Mr. Caramadre to be out to assist in his defense  
24 pending sentencing.

25                And the Government has good reasons for our

1 skepticism of the way that Mr. Caramadre has approached  
2 this. Frankly, in virtually every move that he's made,  
3 there has been some ulterior motive or some attempt to  
4 avoid accountability or to delay even as recently as  
5 filing the motion to continue sentencing I think it was  
6 last night. He is a defendant who has resources. He  
7 has not filed a financial affidavit. Mr. Lepizzera was  
8 trying to work with him on that back in November of  
9 last year. He still has not provided one to the  
10 Probation Office. He had significant resources. How  
11 much we don't know because he hasn't filed the  
12 affidavit. He apparently has an unlimited stream of  
13 income to hire new attorneys as he keeps going through  
14 them over and over and there doesn't seem to be an  
15 issue there.

16 He earned millions of dollars through this  
17 scheme. Some money he has tied up in various accounts,  
18 who knows where, but the bottom line is he's an  
19 individual who has money. And now that he knows based  
20 on some of the statements that the Court has made and  
21 the way his motion went, he knows he is going to spend  
22 a significant amount of time in prison and he's had a  
23 taste of it over the last few weeks, he has the  
24 incentive to leave.

25 Mr. Olen argues that he wouldn't put his family



1 at risk. He put his family at risk with this  
2 ridiculous motion to withdraw his guilty plea. He went  
3 and threw away the opportunity that he had to have a  
4 relatively lenient sentence in this case. He had  
5 Mr. Traini and Mr. Lepizzera working for him. He had  
6 all his history of good works, all of the type of  
7 things that could have been put forth before the Court  
8 to make a very convincing and compelling argument as to  
9 why he ought to be treated leniently. And he  
10 demonstrated throughout that hearing what a farce a lot  
11 of that is. And he did that at the jeopardy of his own  
12 family and his own children and their futures knowing  
13 that he was throwing that way.

14 His own statement to the Court under oath was  
15 he'd rather sit in jail for ten years. So I think he  
16 is somebody who is willing to put his family's best  
17 interests at risk because he doesn't behave rationally.

18 So he is a risk of flight. He is a danger to  
19 the community. There was testimony from Mr. Lepizzera  
20 there was a very concrete statement that Mr. Caramadre  
21 would seek to kill himself by having someone else do  
22 it. Does it sound crazy? Yes, it sounds crazy. But  
23 are we supposed to just deny that he made those  
24 statements? Dr. Greer testified that that type of  
25 concrete statement makes the risk higher. It goes

1 without saying that that is a danger to the community,  
2 even above and beyond Mr. Caramadre himself. No one in  
3 this case, including the Government, including the  
4 attorneys for the Government want Mr. Caramadre to hurt  
5 himself. Our goal is to achieve justice in this case,  
6 not for Mr. Caramadre to hurt himself. But his  
7 statements indicate that he very well may, that he may  
8 put the community at jeopardy as well.

9 I don't want to sit here and articulate a  
10 hypothetical parade of horrors that would happen if  
11 somebody were to try to get someone else to kill  
12 themselves. He's demonstrated irrational behavior  
13 throughout the course of this case. He acts against  
14 his own interest repeatedly. He doesn't take advice  
15 from people around him, and he goes forward and does  
16 whatever he wants to do. And the assessments that you  
17 have are from medical professionals who are largely  
18 basing their opinion on statements that he is making to  
19 them. And he has demonstrated a history of  
20 manipulation and an ability to convincingly tell people  
21 things that are not true. So I think the Court should  
22 have great pause in putting a lot of reliance on them.  
23 And that's not to suggest that their opinions are not,  
24 you know, based on their own professional experience,  
25 but it's got to be a high degree of skepticism that he

1       won't do what he claims he won't do.

2               This argument that he can't assist counsel  
3 really is just simply not accurate. Every defendant  
4 who is detained is given opportunities to consult with  
5 their attorneys to prepare for sentencing. As we  
6 indicated --

7               THE COURT: You would have to agree that the  
8 restitution issues, the loss issues in this case are  
9 going to be fairly complex, and it will be more  
10 difficult for Mr. Caramadre if he's incarcerated to  
11 work with an expert witness if he's at the Wyatt. I  
12 find it hard to imagine that it won't be more difficult  
13 if that's the case.

14              MR. McADAMS: It may be more difficult but that  
15 doesn't necessarily mean that it's not possible to be  
16 done. And I think with respect to those loss issues  
17 and the restitution issues, I do think that they could  
18 be bifurcated, so to speak. Because these arguments  
19 that the defense is making regarding the loss amounts,  
20 certainly the Government was not tacitly conceding  
21 anything. We're simply pointing out that even if they  
22 got some expert to come in and testify that the bond  
23 loss amount was zero, it wouldn't affect the guideline  
24 range because the annuity amount is so large that  
25 you're still in the same guideline range.

1           THE COURT: That's true. It won't affect the  
2 guideline range, but this is something I wanted to ask  
3 you about. We have this situation in this case where  
4 the issue of restitution in the criminal case is  
5 actually a potentially dispositive, partially  
6 dispositive as to the multiple civil cases that are  
7 currently pending before me. And so if I were to rule  
8 in the context -- I think that's the case. If I were  
9 to rule in the context of restitution that all of these  
10 monies were owed, it would effectively take up all of  
11 the liability that's being claimed by the various  
12 plaintiffs in the civil cases as to Mr. Caramadre and I  
13 imagine to Estate Planning Resources and so forth.

14           You may not be that familiar with the civil  
15 cases, but don't you think that's the case?

16           MR. McADAMS: I don't have complete command of  
17 the civil cases, your Honor. I'm not sure to what  
18 extent any of the litigants in the civil cases are not  
19 claiming restitution in the criminal case. I  
20 understand the Court may have a different way of  
21 allotting those in sort of the light of civil cases  
22 than it would in the criminal cases. I don't know  
23 exactly where you would go on that.

24           I understand and recognize that that is a  
25 challenge. I do think the Court could have a

1 sentencing hearing, determine the guideline range, go  
2 through the 3553 factors, and impose a sentence on  
3 Mr. Caramadre and take up the specific restitution  
4 order that the Court would order to victims in the  
5 criminal case at a subsequent hearing.

6 THE COURT: You think that's possible.

7 MR. McADAMS: I think it is. Obviously, I  
8 haven't researched it or anything like that before, but  
9 I think that there were some issues similar in  
10 Mr. DeSimone's case where there were some restitution  
11 orders that we had to deal with after the fact,  
12 although I don't know exactly how similar they were.

13 THE COURT: Let me ask you this. You may not be  
14 in a position to answer this, but there's a pretty  
15 aggressive settlement process going on with respect to  
16 the civil cases, but that process is pretty much on  
17 hold with respect to Mr. Caramadre and the Estate  
18 Planning Resources because of the criminal matter and,  
19 obviously, his incarceration. Often in criminal cases  
20 the Government and the defendant end up agreeing to a  
21 restitution amount.

22 Would it make sense for the Government and  
23 Mr. Caramadre and perhaps what we'll call the victims  
24 in the context of the criminal proceeding to be a part  
25 of a negotiation to maybe arrive at some sort of agreed

1 to restitution?

2 MR. McADAMS: Obviously, without consulting my  
3 superiors I can't commit the Government, but I don't  
4 see a problem with that from the Government's  
5 perspective. It's hard to imagine Mr. Caramadre if  
6 he's going to say there's no loss, he's now not only  
7 arguing bond numbers, which they've argued  
8 historically, but now claiming that even the annuity  
9 numbers aren't there, I don't if that is a realistic  
10 possibility but I think from the Government's  
11 perspective it probably is. And to the extent that  
12 we've had conversations with the victims that have  
13 submitted restitution claims, I don't sense an enormous  
14 amount of resistance from them on that side of things,  
15 so we'd certainly be willing to explore that.

16 But in terms of the motion here, I think that  
17 Mr. Caramadre, nonetheless, even though it may be more  
18 complex than an ordinary case and even though it may  
19 require additional time, he can do what he needs to do  
20 from the Wyatt. And I think that if the Court were to  
21 release him, first of all, I don't know what conditions  
22 could possibly assure that he won't do something that  
23 would either result in him fleeing or being a danger to  
24 the community.

25 The Court is familiar with many examples of

1 people who have fled or can do dangerous things after  
2 being released. And Mr. Caramadre, you know, I think  
3 he's failed to meet his burden essentially. He's an  
4 individual who has a persecution complex, who has a  
5 history of suicidal ideation, who has the incentive,  
6 the ability to flee and who does not act in a way  
7 that's in his best interest and does things, frankly,  
8 that are ill-advised. I don't think that the Court  
9 should take that risk from Mr. Caramadre when in any  
10 event he's looking at a very lengthy prison sentence.  
11 And there's no way that the risk of him either  
12 committing suicide or running or doing something that  
13 hurts someone else is worth it in light of what he is  
14 going to be sentenced to whether it's in six weeks or  
15 in three weeks.

16 Thank you.

17 THE COURT: Thank you, Mr. McAdams.

18 Well, my perspective on this motion is driven  
19 largely by the reality that Mr. Caramadre does not  
20 enjoy any credibility with me. All of the statements  
21 in the expert reports are based on self-reporting. And  
22 Mr. Caramadre, your testimony over the course of this  
23 matter has -- you've testified -- I think this may be  
24 the fourth time you've taken the stand, sworn to tell  
25 the truth including when you entered your guilty plea,

1 including when you testified that you didn't have any  
2 difficulty with Mr. Traini's conflicts, only later to  
3 claim that his conflicts were part of the reason why  
4 you lost trust in him and believed he breached his  
5 obligation to you with respect to the plea. Then you  
6 testified at the plea hearing, and you swore to tell  
7 the truth then. Then you came back and tried to  
8 withdraw your plea and got on the stand and under oath  
9 you said you lied at the plea hearing. I concluded  
10 that you lied when you testified that you lied before.

11 Where that leaves you in terms of your  
12 credibility in this Court is completely without any  
13 credibility. I don't know what to believe when you get  
14 on the stand and testify because you've lied multiple  
15 times and you have to live with that reality.

16 So maybe you're telling the truth to your  
17 therapists and to the doctors and maybe you're telling  
18 the truth here on the stand today, but I don't know  
19 because you've gotten on the stand multiple times and  
20 lied, and you've admitted that you've lied. So you  
21 just don't have any credibility with the Court and  
22 that's the only way that I can view it in light of the  
23 history.

24 Secondly, you have a very strong history of  
25 manipulation. The crime was a crime of manipulation.



1 The motion to withdraw the plea, and I believe, in  
2 fact, the plea itself followed by the motion to  
3 withdraw the plea was a manipulative act. Like I said  
4 from the bench when I denied it, I thought it was a  
5 cynical and a gross attempt to manipulate the Court.

6 So I have no reason to believe that this  
7 testimony in this motion and your efforts with the  
8 providers is anything other than a continuation of that  
9 manipulation. It may be that it's all true what you're  
10 saying but I just can't trust it. That's the problem.  
11 I can't trust what you're saying, and I can't trust  
12 what you're trying to do here. I have to balance that  
13 against the risk.

14 I don't disagree with the statements that have  
15 been made by your counsel that you have very strong  
16 ties to the community and strong ties to your family.  
17 And I think those things are true, and I do think  
18 that -- and I would not attempt to take those away from  
19 you. I think those argue in your favor in terms of  
20 assessing the likelihood that you would flee or that  
21 you would do harm to yourself or someone in the  
22 community. But Mr. McAdams is correct. You have taken  
23 a number of steps in this case that have been  
24 borderline irrational and against your self-interest.  
25 The most blatant of which was filing this motion to

1 withdraw the plea, which has very much, I think, hurt  
2 your situation. And the risk is substantial because if  
3 I was wrong in that assessment and released you and  
4 then you did flee or you did hurt yourself or do  
5 something that was against your interest, then a lot of  
6 people would suffer because of that, and that's not  
7 just focused on you but focused on your family and  
8 others.

9 So the risk is substantial. There certainly  
10 have been examples of people who have had ties to the  
11 community and who have fled in the face of a  
12 substantial prison sentence.

13 So for all of those reasons and the reality that  
14 you're facing a significant prison sentence, we're  
15 going to move on to sentencing and you need to come to  
16 grips with that, I'm going to deny the motion to  
17 reconsider the order of detention.

18 Now, with respect to the motion for a  
19 continuance as to the sentencing date, I do think, as  
20 much as I think that the motion to withdraw the plea  
21 was grossly ill-advised, I think the restitution issues  
22 here, financial issues are sufficiently complex that  
23 some more time should be allowed for sentencing. And I  
24 also think it would be useful to have the Government  
25 and the defense consult and possibly blend that with

1 the mediation that's going on with respect to the civil  
2 cases and see if a restitution amount could not be  
3 agreed to. It might not be possible. If Mr. Caramadre  
4 is claiming that there's no loss, for example, then it  
5 might be very difficult to reconcile the difference  
6 between whatever the amount is, 40 or \$50 million or  
7 zero, but I'm not sure that's what you're claiming.

8 So I'd like to give you both an opportunity to  
9 adequately prepare on that issue and potentially to  
10 have a negotiation or mediation with the Government to  
11 try to figure out whether you can come to some sort of  
12 an agreement.

13 So it seems to me the suggestion of I think you  
14 requested 45 days, to the end of August, that seems to  
15 be a reasonable suggestion, so I'll grant that motion.  
16 And I'll ask counsel after you have some time to meet  
17 with your experts to sit down with Judge Sullivan,  
18 who's been overseeing the civil mediation process, and  
19 see if maybe there's something that you all can work  
20 toward in terms of an agreed to restitution.

21 MR. OLEN: Judge, I don't know if you're aware,  
22 there have been proposed dates at the end of August for  
23 mediation.

24 THE COURT: There are dates already set?

25 MR. OLEN: Not yet set but they've been proposed

1 by the Judge and everyone has seemingly agreed to.  
2 We're just waiting for an order.

3 THE COURT: Should the sentencing be put off  
4 past that date?

5 MR. OLEN: I would ask that, Judge. My 45 days  
6 was from July 9th anyway. That was my request. With  
7 him continuing to be detained, it is going to be a  
8 very, very difficult task to have the forensic  
9 accountant figure this all out. So 45 days from July  
10 9th would put us into the beginning of September. I'd  
11 ask that we do it after the dates of mediation.

12 THE COURT: What are the dates that are proposed  
13 for the mediation?

14 MR. OLEN: I think the 26th and the 27th of  
15 August.

16 THE COURT: All right. Why don't we look for a  
17 date the second week of September then. That will give  
18 you enough time to work on that.

19 MR. OLEN: Thank you, Judge.

20 THE COURT: All right. We'll set the sentencing  
21 down for September 13th, at 9:30 a.m.

22 MR. McADAMS: Your Honor, Mr. Radhakrishnan's  
23 sentencing, are you going to be moving that as well to  
24 the same date? I think some of the restitution  
25 issues --

1           THE COURT: I think it makes sense to do them  
2 together. So let's do that. And there are some other  
3 things in play that could affect that date, but if it  
4 does need to change we'll come up with a new date  
5 around that range. For now, count on that date.

6           MR. OLEN: Could I have that again, your Honor,  
7 please.

8           THE COURT: September 13th at 9:30.

9           MR. OLEN: Thank you.

10          THE COURT: If there's nothing further, we'll be  
11 in recess.

12          (Court concluded at 4:40 p.m.)  
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C E R T I F I C A T I O N

I, Anne M. Clayton, RPR, do hereby certify  
that the foregoing pages are a true and accurate  
transcription of my stenographic notes in the  
above-entitled case.

/s/ Anne M. Clayton

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Anne M. Clayton, RPR

July 3, 2013

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Date